

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

MODERN RULES OF PROCEDURE
FOR THE ISSUANCE OF
ADVISORY OPINIONS IN NATURE OF
SERVICE PROCEEDINGS

DOCKET NO. RM2012-4

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Respectfully submitted,

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It should be noted that the N cases that have appeared before the Commission have been for very significant changes being proposed by the Postal Service. As such, they deserve and require extensive evaluation by the Commission.

It has been some time now since I have participated in person at Commission proceedings. Since then the Commission has instituted on-line filings and Internet broadcasting of most proceedings. This has improved the level of participation by individual participants and those located some distance from Washington. However, not all sessions are broadcast and even though they are, it is still a one way activity.

The Commission has eliminated the Office of the Consumer Advocate and replaced it by the Public Representative. Now there is no longer a permanent individual or group that is attuned to the needs of the public.

The Commission should be sensitive to the needs of individual participants and those located at a distance from Washington.

The Commission is proposing pre-filing consultations be conducted by the Postal Service. This raises a number of points:

- How will a potential participant in the upcoming N-case be aware of the need for requesting such a consultation?
- How will an intelligent discussion be possible when the participant has not seen or has not fully evaluated the pending proposal?
- Will these consultations be conducted in Washington or can they be conducted by telephone from any location?
- Will the Postal Service be required to engage in discussions upon the request of all potential participants?

The Commission is proposing shortened deadlines for responding and objecting to discovery.

- Responding to discovery – 7 days
- Objecting to discovery – 3 days
- Responding to an objection – 2 days
- Responding to discovery after denial by the Commission – 3 days

This places what I believe is an undue obligation on a participant, particularly an individual participant, to be fully engaged and committed to meet all of these deadlines. It also should be noted that in the recent N-cases, the Postal Service did not respond to many discovery requests on time and it required Motions to the Commission to have them do so. There does not appear to be any incentive for the Postal Service to respond to discovery on time. From the participant's standpoint, unfortunately, a late answer is still better than no answer.

These late responses by the Postal Service have led to what I believe was an unfair advantage to the Postal Service. Interrogatories were submitted on a date which would have required a response by the Postal Service prior to the end of the discovery period. These interrogatories were not responded to on time and were responded to after the end of the discovery period. Had the responses been on time, it would have been

possible to ask both follow-up interrogatories as well as others which were suggested by the response. Since they were not responded to on time, only follow-up interrogatories could be made.

Furthermore, at times the Postal Service has adopted a policy as to what was a follow-up interrogatory to a topic, namely, that could not have been asked at the time of the original interrogatory even though it was asked to clarify the response.

It is proposed to limit participants to 25 interrogatories. In many instances in past cases I have utilized a follow-up interrogatory rather than a Motion to Compel when the Postal Service's response was not complete. If there is a limit of 25 interrogatories, there will likely be an increase in the number of Motions. Also a participant may make a request to another participant to ask that participant to ask them to file the interrogatory on their behalf.

With respect to the word limits on initial and reply briefs, how many of the briefs filed in past N-cases exceeded that limit? Will the word count also apply to the Postal Service's Brief?

The last sentence of Rule 3001.73 appears to state that if a filing is due by 4:30 PM on a given day, and a part-day holiday to leave at 3 PM is declared for a snow storm, my filing will be late. Even if the part-day holiday is known in advance, if it occurs at the end of the day, my time to work on a filing is shortened.

It also appears that participants will be required to file their rebuttal case and the Postal Service their surrebuttal case prior to the hearing on the Postal Service's direct case.

Will a participant who does not have access to the Internet be able to meet the new deadlines for filing as well as having sufficient time to evaluate and prepare their filings?